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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/988,292	12/10/97	THEEOWES	ARC-2600-R1

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QM31/0317

EXAMINER

MCDERMOTT, C

ART UNIT PAPER NUMBER

3734

DATE MAILED: 03/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/988,292

Applicant(s)

Theeuwes et al.

Examiner

Corrine McDermott

Group Art Unit

3734



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-25 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-25 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✓ In claim 1 “a body surface contacting side” is merely inferentially included in the claim and not positively recited.

Claims ~~9~~, ~~15~~, ~~17~~, ~~20~~, and ~~22~~ are indefinite because it is unclear if Applicant is claiming the combination of the device and the agent, or the subcombination of the device alone. This lack of definiteness arises from the clear indication in the preamble that Applicant intends to claim only the above subcombination, but Applicant goes on in the claims to positively recite the combination. See lines 1 and 2 of claim 9, for example. The lack of consistency between the preamble and a portion or portions of the body of the claims renders the claims indefinite, because the scope of the claims is unclear. Applicant is required to clarify to what the claims are intended to be drawn, i.e. either the combination or the subcombination, and further that the language of the claims be made consistent with this intent.

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In claims 14 and 16 "a second side of the member" is merely inferentially included in the claims and not positively recited.

Claim 18 is found to be indefinite because it is not clear from what the plurality of protrusions extend. There is not enough structure claimed to support a "first side".

There is no antecedent basis for "the first side" of claim 19.

There is no antecedent basis for "the agent" of claims 23-25. Note that the agent has not been positively recited as part of the claimed invention.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-12, 14, 15 and 18-24 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 429 842.

The EP reference discloses a device which includes, as seen in figure 1, a member having a plurality of protrusions 4 extending therefrom, and a connecting medium 3 preloaded with an agent. With further reference to page 7 lines 13-16, it is taught that the member to which the plurality of protrusions are attached is a woven sheet of polypropylene fibers. Clearly there are

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openings of some size within the woven sheet of fibers, and at various stages of delivery the medium will extend across, through and into these openings.

*Allowable Subject Matter*

Claims 6, 7, 13, 16, 17 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tapper and Gross et al. disclose devices analogous to that as claimed.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Corrine McDermott, whose telephone number is (703) 308-2111. The Examiner can normally be reached on Monday through Thursday from 7:00 AM to 4:30 PM. The Examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. The fax phone number for this Group is (703) 305-3590.

  
Corrine M. McDermott  
Primary Examiner  
Art Unit 3734